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Situation of human rights in Iraq

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, Andreas Mavrommatis, in accordance with Assembly resolution 56/174 of 19 December 2001.

* A/57/150.

** This report is being submitted on 20 August 2002, so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq

Contents

		Paragraphs	Page
I.	Introduction	1–4	3
II.	Developments since the fifty-eighth session of the Commission on Human Rights	5–15	3
III.	Allegations of human rights violations committed by the Government of Iraq	16–23	7
IV.	Assessment of progress and planning of future visits	24–27	8
V.	Humanitarian aspects	28–30	9
VI.	Conclusions and recommendations	31–38	10
Annexes			
I.	Note verbale dated 16 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding investigations carried out by the Ministry of the Interior into citizens' complaints of ill-treatment by the police authorities		11
II.	Note verbale dated 17 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva on the issue of exploitation of agricultural land in northern Iraq		13
III.	Note verbale dated 19 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding the decree providing for a change of ethnicity		14
IV.	Note verbale dated 19 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding choices of names for newborn infants		15
V.	Note verbale dated 8 May 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding the composition of the special courts and the review of the death penalty		16
VI.	Reply of the Government of Iraq to the requests for clarification of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq		17
VII.	Note verbale dated 11 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva		22

I. Introduction

1. This interim report of the Special Rapporteur on the situation of human rights in Iraq is submitted to the General Assembly at its fifty-seventh session pursuant to Assembly resolution 56/174 of 19 December 2001, as well as Commission on Human Rights resolution 1991/74 of 6 March 1991. The mandate of the Special Rapporteur was renewed for a further year by Commission resolution 2002/15 of 19 April 2002.

2. Unless otherwise stated, the report covers the period from 21 February to 4 July 2002. The report should also be read in conjunction with the Special Rapporteur's report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/44).

3. It should be noted that, as the previous report of the Special Rapporteur was finalized just prior to the beginning of the fifty-eighth session of the Commission on Human Rights in March 2002, the current report only briefly summarizes developments following that session of the Commission (i.e., in the period from 26 April to 4 July 2002). As requested by the Commission in its resolution 2002/15, the Special Rapporteur intends to submit a more comprehensive report at the fifty-ninth session of the Commission.

4. The report also takes account of various comments submitted in writing and orally by the Government of Iraq, including the response of the Government of Iraq to the 2001 report of the Special Rapporteur to the Commission at its fifty-seventh session (E/CN.4/2001/42) and his previous interim report to the General Assembly at its fifty-sixth session (A/56/340), the Government's response to recommendations and suggestions by the Special Rapporteur, as well as other communications referred to in detail in the present report.

II. Developments since the fifty-eighth session of the Commission on Human Rights

5. Since his appointment in December 1999, the Special Rapporteur has continuously sought to establish a constructive dialogue on human rights with the Government of Iraq, with a view to improving the human rights situation in the country. In this regard, he welcomes the fact that the Government accepted his first exploratory visit in February 2002 (see E/CN.4/2002/44 for a summary account of the visit).

6. The Special Rapporteur also welcomes the continuation of the dialogue following the visit. During the reporting period, the Special Rapporteur devoted most of his efforts to the essential follow-up activities related to his mission to Iraq. He held several meetings in Geneva with representatives of the Government of Iraq. The Special Rapporteur regrets that, although the Government did cooperate, this cooperation, although improved, did not attain the level, detail and substance he had expected.

7. In his report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/44), the Special Rapporteur reiterated his request for additional information regarding specific issues which he put forward during his mission in February. The report notes in paragraphs 70 and 71:

"70. Furthermore, as discussed during the previous meetings with government ministers and others, the Special Rapporteur pointed out that he would be looking forward to receiving the following information:

"A list of all crimes that currently carry the death penalty;

"A copy of the study currently being finalized by the Ministry of Justice and others which proposes the reduction of the sentence for certain crimes from death penalty to a lesser sentence;

"A list of all executions carried out in Iraq during the past two years (2000 and 2001);

"Additional written information regarding the planned reforms in the prison sector, as well as information as to the progress of implementation of these reforms;

"An explanatory note clarifying the decree permitting the changing of nationality/ethnicity to Arab;

"An explanatory note regarding the current land reform cultivation plan/scheme currently being carried out in the north (as briefly described by the Minister of the Interior);

"An explanatory note regarding the status and authority of the special courts;

"An explanatory note clarifying the decree regarding the naming of children.

"71. In particular, the Special Rapporteur underlined the necessity of receiving the information requested with regard to the death penalty so that the issue of the right to life set out in article 6 of the International Covenant on Civil and Political Rights could be properly dealt with."

8. During a meeting on 1 April 2002 with the Permanent Representative of Iraq to the United Nations in Geneva, the Special Rapporteur reiterated the need for effective follow-up and urged the Government to provide the information requested in advance of a planned in-depth meeting with a delegation from Iraq, in order to review progress and developments.

9. In the context of this follow-up to the requests for information put forward by the Special Rapporteur, the Government provided the following documentation in the period from 1 April to 28 June 2002:

(a) Note verbale dated 16 April 2002 regarding investigations carried out by the Ministry of the Interior into citizens' complaints of ill-treatment by the police authorities (annex I);

(b) Note verbale dated 17 April 2002 on the issue of exploitation of agricultural land in northern Iraq (annex II);

(c) Note verbale dated 19 April 2002 regarding the decree providing for a change of ethnicity (annex III);

(d) Note verbale dated 19 April 2002 regarding choices of names for newborn infants (annex IV);

(e) Note verbale dated 8 May 2002 regarding the composition of the special courts and the review of the death penalty (annex V. This note was also accompanied by a note from the Government, which allegedly provides information about the activities, including alleged violent and armed activities, of the Supreme Council of the Islamic Revolution in Iraq against the Government of Iraq. The note is not provided as an annex, as it falls outside the mandate of the Special Rapporteur).

10. On 10 May the Special Rapporteur had another meeting in Geneva with the Permanent Representative of Iraq to the United Nations in Geneva. The Special Rapporteur pointed out that he welcomed the submission of information from the Government, that he regretted that the information was not very detailed and that more comprehensive information was expected, as promised. He also noted that some of the most important information requested, in particular with regard to the right to life and the death penalty, had not been received.

11. The Special Rapporteur also suggested that at the end of June the more comprehensive meeting planned should be held in Geneva, where a representative of the Department for Human Rights of the Ministry of Foreign Affairs of Iraq would be present. Following the meeting, the Special Rapporteur addressed a letter on 14 May to the Permanent Representative in Geneva, in which, inter alia, the following was stated:

> "Further to our constructive discussions during our meeting on Friday, 10 May 2002, I have the pleasure to suggest, in writing, that a meeting between representatives of your Government, including officials from the Human Rights Department of the Ministry of Foreign Affairs, take place at the end of June, preferably during the days between 21 and 26 June. However, I remain at your disposal to meet at any other time which might be more suitable to you.
>
> "Further to our previous discussions in Baghdad as well as the requests outlined in paragraph 70 of my report to the Commission on Human Rights (E/CN.4/2002/44), I would suggest that the meeting focus on the following main issues:
>
> 1. The right to life (including issues pertaining to the death penalty);
>
> 2. The special courts;
>
> 3. Allegations regarding 'Arabization';
>
> 4. Reform in the prison sector;
>
> 5. Agreement on the continuation of the dialogue and next visit to Iraq.
>
> "I would expect that our exchange of views will be conducted in an open and frank manner and that the different subjects can be examined in detail with a view to continuing our constructive dialogue on human rights and eventually contribute to the promotion and protection of all human rights in Iraq."

12. The Government subsequently informed the Special Rapporteur that the Permanent Representative of Iraq to the United Nations in Geneva had been authorized to meet with him. A meeting was held on 28 June 2002 at the premises of the Office of the High Commissioner for Human Rights in Geneva. While the Special Rapporteur appreciates the cooperation with the Permanent Representative of Iraq, he would have hoped that a delegation from the Department for Human

Rights of the Ministry for Foreign Affairs of Iraq would have attended the meeting, as this is the key governmental institution dealing with human rights in Iraq and would have been in a position to reply to questions in detail.

13. During the meeting, the Government handed over a note containing certain additional information, requested during previous meetings, regarding (a) the reforms carried out by the Minister of Labour and Social Affairs in the prison sector; (b) the reduction of penalties; (c) commutation of sentences; (d) the number of death sentences carried out over the past two years (2000 and 2001); and (e) special courts (see annex VI). The Special Rapporteur again welcomed the continuation of the dialogue. However, he noted that he was disappointed with the lack of detail in the information provided thus far. He also regretted that no delegation from the Department for Human Rights in the Ministry for Foreign Affairs had been dispatched. The Special Rapporteur noted that, while cooperation continued and more replies had been given, the degree of compliance with his recommendations was limited and replies were either delayed or lacked the necessary details.

14. On 1 July 2002, the Special Rapporteur sent a letter to the Government, requesting additional clarification on certain issues discussed during the meeting. The letter, inter alia, read as follows:

> "As noted during our discussions, many of these are repetitions or requests for additional clarifications of my previous requests:
>
> "1. As I have stated on several occasions, I deem it essential to be provided with the names of all persons executed in 2000 and 2001 in Iraq, including dates of trial, appeal and execution, and crimes each person was convicted for, including an indication of the relevant provisions in law.
>
> "2. Additional information regarding the review of crimes currently carrying the death penalty as maximum sentence, with specific indications, if possible, of which crimes are affected by this review, and if possible, a copy of the draft study being prepared by the committee entrusted with this task, and an indication of the estimated time of completion of the review.
>
> "3. How many persons have benefited, from 2000 until now, from legislation and decrees reducing death sentences to lesser sentences?
>
> "4. Of all persons executed in 2000 and 2001, how many were executed under article 256 of the Penal Code and/or other penal provisions which relate to national security?
>
> "5. Which measures have been taken since my visit to Iraq in February 2002 to improve the conditions in the section of the Abu Ghraib prison assigned to persons sentenced to death ("death row")?
>
> "6. Which other measures have been taken to improve the conditions in the Abu Ghraib prison in general since my visit, including information regarding the progress in the construction of the new prison facilities being constructed in Abu Ghraib (including dates or expected dates for entry into use)?
>
> "7. Further information regarding the justification for the existence of the special courts, including further information regarding the composition,

authority and rules of procedure of the special judicial committee which reviews the verdicts of the special courts.

"8. Out of the total number of death sentences in 2000 and 2001, how many were handed down by the special courts?

"9. Further clarification regarding Revolutionary Command Council Decree No. 199 of 6 September 2001, which allows persons registered as non-Arab to change their ethnicity to Arab. In particular, a clarification of why only the change to Arab ethnicity, and not other ethnicities, is provided for, as this provision could be construed as discriminatory.

"10. Further clarification with regard to the discussed allegations regarding 'Arabization'; that is, allegations claiming that non-Arabs are being forcefully displaced from certain areas in the country, and that Arab populations are being moved into these areas.

"11. A brief note on the impact of Security Council resolution 1409 (2002) of 14 May 2002 on the humanitarian situation in Iraq."

15. Following the meeting on 28 June 2002, the Permanent Mission of Iraq submitted some additional notes verbales. As no official translation of these documents could be obtained before the submission of the present report, the Special Rapporteur will consider these notes in his report to the Commission at its fifty-ninth session in 2003.

III. Allegations of human rights violations committed by the Government of Iraq

16. During the reporting period, the Special Rapporteur continued to receive allegations of human rights violations committed by the Government of Iraq from various sources. These allegations relate to extrajudicial killings, torture, cruel, degrading and inhuman treatment and punishment, forced displacement (the policy of "Arabization"), the lack of fair trial, freedom of expression and association, religious freedom and other rights. This information has provided some of the background material which the Special Rapporteur draws on in his discussions with the Government of Iraq.

17. As noted in his report to the Commission on Human Rights, during his visit to Iraq in February 2002, the Special Rapporteur gathered considerable information regarding alleged human rights violations by the Government. The Special Rapporteur received information from several individuals claiming to have directly witnessed human rights violations. In particular, the Special Rapporteur received information about secret detention sites, where allegedly torture, cruel, degrading and inhuman treatment and punishment is widespread. He intends to continue to make use of this information in the future.

18. In a few instances, the Special Rapporteur also decided to address specific individual cases. During the reporting period, the Special Rapporteur sent three letters to the Government containing specific allegations of human rights violations committed by the Government of Iraq. On 3 April 2002, he addressed a letter regarding an American pilot who, according to some information, was still being held by the Iraqi authorities. On 11 April, the Government provided a reply to the

letter, stating that the Government, as it had stated previously, was willing to accept a United States team to investigate the matter (see annex VII).

19. On 8 May 2002, the Special Rapporteur addressed a letter to the Government regarding the situation of Ms. Safia Taleb Al Souhail, publisher of the newspaper *Al Manar Al Arabi* and Advocacy Director of the Arab and Islamic World at the International Alliance for Justice, who had allegedly received death threats from a messenger of the Government of Iraq during her stay in Jordan. The letter was also signed by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders. On 5 June, the Government provided a reply, stating that the allegation was untrue.

20. The third letter was addressed to the Government on 26 July 2002, regarding the situation of two individuals: Hamza Qassim Sabbat, also known as Abu Haitham, and Ibrahim 'Abd al-Jasim Mohammad, also known as Abu Ayub. According to the information received, both men were said to have appeared on Iraqi national television at the end of July and confessed their involvement in "terrorist acts" inside Iraq for the benefit of a foreign country. The letter stated that "it is feared that their confessions may have been extracted under duress and that televised statements may have an impact upon the fairness of their trial. The two men are also said to be at risk of being sentenced to death and executed". The letter was signed jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture. In the letter, the Special Rapporteur also reiterated his recommendation to the Government to implement a moratorium on executions. As the letter was submitted immediately prior to the submission of the present report, no response had been received. The Special Rapporteur hopes that a response will be received in due course, and he will report on it in his next report to the Commission.

21. With regard to the issue of Kuwaiti prisoners of war and persons unaccounted for since the time of the Iraqi occupation of Kuwait, the Special Rapporteur notes that there have been no positive developments during the reporting period. As previously stated, the Special Rapporteur urges the Government of Iraq to cooperate with the Tripartite Commission and the High-level Coordinator, Ambassador Yuli Vorontsov, pursuant to Security Council resolution 1284 (1999) of 17 December 1999.

22. With regard to missing Iraqis, and Iraqis missing as a result of expulsions that occurred in the 1980s, the Special Rapporteur equally regrets to report that there have been no positive developments on this issue.

23. The Special Rapporteur, while expressing regret that there have been no improvement in the situation, reiterates his willingness to assist in any way possible all parties concerned in their efforts to resolve this urgent humanitarian issue.

IV. Assessment of progress and planning of future visits

24. Although there has been progress in establishing a dialogue with the Government, the Special Rapporteur regrets to reiterate that this dialogue has remained at a far too general level. The Special Rapporteur hopes that the dialogue

will develop, reach a more substantive level and produce tangible improvements in the human rights situation in Iraq.

25. During the meeting on 28 June with the Permanent Representative of Iraq, the Special Rapporteur reiterated his wish to conduct another mission to Iraq, which would be more extensive than the previous one. He also pointed out that, in the future, it was his intention to focus on a range of civil, cultural, economic, social and political rights contained in the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights, to which Iraq is a State party. The Special Rapporteur intends to focus, inter alia, on matters such as freedom of expression, freedom of opinion, right to peaceful assembly and association, as well as the democratic rights contained in article 25 of the International Covenant on Civil and Political Rights.

26. The Special Rapporteur also stressed that he would hope to visit both the north and the south of the country. The Permanent Representative of Iraq informed the Special Rapporteur that, in principle, the Government had no objection to another visit, and requested the Special Rapporteur to submit a request in writing. The Special Rapporteur, who considers a new visit to be a sign of improved cooperation, welcomed this indication from the Government.

27. Subsequently, on 30 July, the Special Rapporteur wrote to the Government officially requesting a visit. The letter, inter alia, stated that:

> "This second mission would be more comprehensive and thorough than the previous exploratory one I conducted in February 2002, and as such would be of a longer duration. I would also expect that I would be accompanied by at least two staff members of the Office of the High Commissioner for Human Rights, as well as at least two United Nations interpreters. During the mission, I would wish to visit various areas both in the north as well as in the south of Iraq.
>
> "With regard to the dates of the mission, I would suggest some time between November 2002 and January 2003. If, for some reason, these suggested dates for the mission are inconvenient, I remain flexible, and would expect you to suggest other alternative dates.
>
> "The further details of the mission will naturally have to be agreed upon jointly. In this regard, I would thus very much appreciate, as the next step, receiving an initial reply to this request at your earliest convenience."

V. Humanitarian aspects

28. The Special Rapporteur continued to follow developments with regard to the humanitarian situation in Iraq. As he has previously noted, he believes that, in order to carry out his mandate, he needs to be fully apprised of anything that, directly or indirectly, intentionally or unintentionally, has adverse effects on the human rights situation in the country.

29. He has often joined the Secretary-General in expressing concern at the unintended human rights consequences of the international embargo against Iraq, including the number of applications placed on hold by the United Nations Security Council Committee. In this regard, he welcomes the adoption by the Security

Council of resolution 1409 (2002) of 14 May 2002, which is intended to reduce the number of orders placed on hold.

30. The Special Rapporteur takes note of a weekly update released on 30 July 2002 by the Office of the Iraq Programme in which, inter alia, it is stated that: "The first batch of 14 humanitarian supply contracts, worth over $7.62 million, that had been previously placed on hold by the Security Council's 661 sanctions committee, were approved last week following their reassessment in accordance with paragraph 18 of the new procedures for the review and processing of contracts under Security Council resolution 1409 (2002). [...] It is foreseen that with the end of this process, there will no longer be contracts on hold. There are now 2,141 contracts, worth over $5.39 billion, that had been placed on hold by the 661 committee, of which 1,480 contracts, valued at about $4.6 billion, are for humanitarian supplies and 661 contracts, worth $774 million, are for oil industry equipment." The Special Rapporteur hopes that these new measures will effectively eliminate the unintended impact on the humanitarian situation in Iraq.

VI. Conclusions and recommendations

31. The Special Rapporteur wishes to reiterate his conclusions and recommendations set out in previous reports and urges the Government to take action to implement his recommendations, and to inform the Special Rapporteur about the actions taken.

32. The Special Rapporteur welcomes the fact that a dialogue has been initiated with the Government of Iraq, and that the Government has responded in writing to some of his requests for information.

33. The Special Rapporteur urges the Government to provide detailed replies to outstanding requests for information and to reply to all letters concerning individual cases.

34. In particular, the Special Rapporteur urges the Government to provide all additional information requested regarding the right to life and the death penalty.

35. The Special Rapporteur reiterates his recommendation to the Government to implement a moratorium on executions, an issue to which the Special Rapporteur attaches considerable importance.

36. The Special Rapporteur urges the Government to reply urgently in writing to his request for another visit, and to proceed with the planning arrangements jointly with the Special Rapporteur.

37. The Special Rapporteur urges the Government to end all actions and policies that directly or indirectly affect or encourage religious intolerance, or any other sort of discrimination, including actions related to "Arabization".

38. The Special Rapporteur urges the Government to abolish the special courts, and ensure that the rule of law is respected everywhere and at all times in Iraq, in accordance with Iraq's freely undertaken obligation under international human rights instruments.

Annex I

Note verbale dated 16 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding investigations carried out by the Ministry of the Interior into citizens' complaints of ill-treatment by the police authorities

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and to the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and has the honour to transmit to him herewith the following reply which is based on investigations carried out by the Ministry of the Interior into citizens' complaints of ill-treatment by the police authorities.

1. The provisions of the law apply to everyone without exception. The current Penal Code No. 111 of 1969 contains several articles concerning abuse of public office, including article 332, which designates as a criminal offence any act involving "any public employee or person charged with the performance of a public service who, in that capacity, uses force against another person in such manner as to damage that person's self-esteem or honour or to cause him physical pain, without prejudice to any more severe penalty which may be specified by the law".

2. In implementation of the foregoing, police officers are held legally accountable for any act of this kind which they may commit. The following are three examples of recent judicial applications of this principle:

(a) On 27 November 2001 the Baghdad Police Court handed down a two-month prison sentence against one police officer and a one-month sentence against another in application of article 332 of the Penal Code;

This criminal sentence was imposed following an investigation into complaints from two citizens who are brothers (Ahmad and Ra'id Samir Abdullah) that they were subjected to verbal and physical abuse while they were being held in custody on a charge of house burglary;

(b) On 23 December 2001 the Baghdad Police Court sentenced five policemen, three police officers and two ordinary police constables to six months in prison, in application of the same article of the Code. This criminal penalty was imposed following an investigation into a complaint from a citizen (Latif Idan Abd) that he had been ill-treated by the policemen while he was in custody on a charge of murder and this for the purpose of extracting a confession from him to the crime;

(c) On 16 January 2002 the Baghdad Police Court sentenced two ordinary police constables to one month in prison each, in accordance with the same article of the Code. The criminal sentence was imposed following an investigation into a complaint from a citizen (Ahmad Mohammed) that he had been ill-treated by the two police constables concerned when he intervened, in good faith, while they were arresting one of the accused persons.

It should be pointed out that these penalties also adversely affect the career prospects of the person punished, insofar as any penalty imposed, for example, upon a police officer will delay his promotion by a period of three months, in addition, naturally, to the penalty itself.

3. Moreover, the Ministry has taken several steps to speed up the process of transmission of citizens' complaints to Ministry officials and, in most cases, to the Minister himself. These steps include the following:

(a) Personal interviews between the Minister and the citizens;

(b) The presence in the Ministry of a department known as the Directorate of Citizens' Complaints, which is responsible for receiving citizens, listening to their complaints and submitting them to the Minister himself;

(c) In order to ensure that the views or complaints of citizens reach the Minister personally, the Ministry has provided a large number of boxes in which citizens can post their complaints. These boxes have been installed throughout the main post offices of Baghdad and the governorates and there are corresponding boxes for that same purpose in the various departments of the Ministry itself.

Annex II

Note verbale dated 17 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva on the issue of exploitation of agricultural land in northern Iraq

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and has the honour to submit hereunder the information pertaining to the exploitation of agricultural land in northern Iraq which the Special Rapporteur requested during his visit to Iraq. Its answers are as follows:

Exploitation of agricultural land in northern Iraq

The State is endeavouring to make the best possible use of land suitable for agriculture. Iraq has a growing need to optimize the utilization of such land, because of factors arising from its particular circumstances, of which the most important is the shortage of water provided to it by the Tigris and Euphrates Rivers, which originate in Turkey. In addition, the oppressive embargo imposed against the Iraqi people prevents by various means the import of inputs required for agricultural production, leaving large tracts of cultivable land without the resources required to guarantee a proper system of irrigation using water channels and industrial irrigation systems. Naturally, the State is working to encourage exploitation of cultivable land using water supplied by natural rainfall. Because of Iraq's climatic conditions, this type of land tends to be found throughout the governorates of the northern region.

The State distributes this land to all farmers willing to exploit it for agricultural purposes, without regard to their ethnic affiliation.

For the above reasons, and because of the urgent need to irrigate land that is not connected to the water supply, a total of approximately 1 million dunums[6] of land in the area of Dimiyah in the Ninawa governorate have been handed over to foreign companies for reclamation, in accordance with a memorandum of understanding (signed by the Ministry of Irrigation), and for the digging of hundreds of bore wells in the governorate of Al-Ta'mim.

[6] *Translator's note*: 1 dunum equals approximately 2,500 m^2.

Annex III

Note verbale dated 19 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding the decree providing for a change of ethnicity

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and to the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and has the honour to transmit herewith the response to the request made by the Special Rapporteur during his visit to Iraq for information about the decree providing for a change of ethnicity.

Decree providing for a change of ethnicity

Because of the presence of cases left over from the records of the Ottoman period of rule, in which Iraqi citizens have been wrongly registered in popular censuses as being of non-Arab ethnicity, and in order to provide Iraqis with the right to choose their ethnicity, Revolution Command Council Decree No. 199 was promulgated on 6 September 2001 to provide every Iraqi who has reached the age of 18 with the right to apply to change his ethnicity to Arab ethnicity. It should be pointed out that this right is optional and not compulsory.

Annex IV

Note verbale dated 19 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding choices of names for newborn infants

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and to the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and has the honour to transmit to the Special Rapporteur herewith its response to his request for information concerning the choice of names for newborn infants.

Choice of names for newborn infants

Some parents give their children foreign names that are alien to the heritage of Iraqi society, thereby forcing the bearer of the name to face the astonishment and persistent and embarrassing questions of those around them as to the meaning of their socially unusual names. For this reason, a decision has been taken that names must be either Iraqi, Arab or Islamic. It should be pointed out that the concept of Iraqi identity embraces the names of all religious and ethnic communities, including Kurdish, Turkoman, Christian and other names of other communities (the competent Iraqi authorities have already formed a committee to facilitate the application of the relevant Act).

Annex V

Note verbale dated 8 May 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva regarding the composition of the special courts and the review of the death penalty

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and has the honour to transmit herewith the response of the competent Iraqi authorities to the questions raised by the Special Rapporteur on the constitution of special courts and the review of the death penalty.

Text of the reply

1. Composition of special courts

Special courts are constituted by three ordinary court judges. The public prosecutor in such courts will also be one of the prosecutors who normally appears before the ordinary courts. The special courts apply the provisions of Penal Code No. 111 of 1969 and follow the procedures set forth in the Principles of Criminal Proceedings Code No. 23 of 1971, both of which are applied by the criminal courts in Iraq. Defendants in the special courts are guaranteed the right and freedom to present a defence, as a matter of course. In accordance with article 144 of the Principles of Criminal Proceedings Code, they have the right to appoint a lawyer or legal representative of their own choosing and are guaranteed the right to a trial conducted in accordance with due process. The verdicts that are handed down by special courts are reviewed by a special judicial committee, which acts as an appeal body. A special court is a type of specialized criminal court which, in all cases, is temporary in nature.

2. Review of the death penalty

In spite of the persistence of the exceptional circumstances in which Iraq finds itself as a result of the comprehensive embargo and daily acts of aggression against it by the United States of America and the United Kingdom of Great Britain and Northern Ireland, Saddam Hussein, the President of the Republic, has ordered that efforts should continue to review exceptional laws and decrees with a view to mitigating their effects. To that end, at a meeting of the Council of Ministers held on 29 October 2001, he issued orders that a review should be conducted of the death penalty, with a view to replacing it by penalties involving deprivation of liberty or appropriate financial penalties. A committee has been set up for that purpose, consisting of the Minister of Justice, the Minister of Labour and Social Affairs and the Minister of Religious Endowments and Religious Affairs. The committee intends to draft a report on the subject and submit it to the Council of Ministers for the adoption of appropriate recommendations in this regard. We shall notify the Special Rapporteur of the outcome of this report, as soon as the Council of Ministers reaches a decision.

Annex VI

Reply of the Government of Iraq to the requests for clarification of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq

A. Reforms carried out by the Ministry of Labour and Social Affairs in the prisons sector

The Public Agency for Social Reform Act No. 104 of 1981 guarantees the rights of prisoners and detainees sentenced by the competent authorities to deprivation of liberty, by providing for their behavioural, vocational and educational rehabilitation and making them aware of their rights and obligations, through the formulation of scientific plans that contribute to the elaboration of reform programmes enhancing the effectiveness of efforts to reform and reintegrate prisoners into society, in keeping with the humanitarian goals of the 17-30 July revolution of 1968.

The above-mentioned Act also guarantees the rights of prisoners to meet their relatives face to face, without any barriers between them. With regard to the large numbers of inmates in correctional facilities, it is necessary to recall a well-known fact, namely, that after the Glorious Revolution of July 1968 the Iraqi economy flourished and individual living standards improved. This engendered a fall in the crime rate and a decline in the numbers of offenders, which prompted the Government of Iraq to promulgate a decree closing down correctional facilities in a number of governorates and retaining only those located in the governorates of Baghdad, Ninawa, Basra, Babil and Diyala.

However, the exceptional circumstances which Iraq has endured since 1991, because of the aggression and ongoing imposition of the unjust economic embargo against it, have led to a fall in individual living standards and a rise in rates of crime and the numbers of offenders, with a corresponding increase in the size of the prison population. In spite of this, the number of prisoners as a proportion of the total population of Iraq currently stands at 0.13 per cent, a tiny percentage compared with other societies living in normal circumstances.

In order to continue to guarantee the rights of prisoners and detainees, to supply their accommodation, social and health requirements and to preserve their dignity, the Bureau of Adult Reform of the Ministry of Labour and Social Affairs has conducted studies and proposed solutions and remedies appropriate to their situation. The measures taken by the Government of the Republic of Iraq in this regard are outlined below.

1. A sum of 12.2 million Iraqi dinars has been earmarked for the construction of six prison blocks, four in the Abu Ghraib prison and two in the governorate of Babil prison, to accommodate 7,200 prisoners. The work has already begun.

2. The wing of the Khan Bani Sa'd prison reserved for prisoners serving minor sentences has been renovated at a total cost of 1,321,017,000 dinars, in order to accommodate 3,400 inmates. It is hoped that the work will be completed during the second half of 2002.

B. Reduction of penalties

The Government of the Republic of Iraq strives, for humanitarian reasons, to reintegrate prisoners into society after they have completed the numerous reform programmes that are run in prisons for the purpose of giving prisoners a second chance to be useful members of society and to lead a normal life. This is achieved through the following measures:

1. Revolution Command Council Decree No. 20 of 2000 replaces one half of the sentence with a fine. In 2001, a total of 876 prisoners benefited from the terms of the Decree, while the corresponding figure for the period from the beginning of 2002 to 6 May 2002 was 893. The Decree remains in force.

2. Religious campaign programmes provide for a 10 per cent reduction in the sentences served by participating prisoners. In 2001 1,681 prisoners benefited from religious studies course No. 13, while 1,740 prisoners benefited from course No. 14 of 2002 and 575 from course No. 16 of 2002. It is worth pointing out that these programmes consist of lectures for the prisoners on the texts of the Holy Koran and the magnanimous Islamic Shariah, which call for the shunning of crime and compliance with exemplary

morals and declare it unlawful for one human being to kill another, and on the illustrious biography of the Prophet.

3. Revolution Command Council Decree No. 107 of 26 April 2001 (a copy of which is attached) reinstates the provisions of the Penal Code No. 111 of 1969 governing fines and substitutionary fines for infractions and misdemeanours punishable by a term of no more than three years' imprisonment.

4. Revolution Command Council Decree No. 108 of 26 April 2001 (a copy of which is attached) provides for a 50 per cent reduction of prison sentences handed down against prisoners and detainees on or before the date of the entry into effect of the Decree. The period of conditional release to which a person covered by the provisions of the Decree is legally entitled is calculated on the basis of the term remaining after the sentence has been reduced by the aforementioned percentage. Between 27 April 2001 and 7 May 2002, a total of 4,235 prisoners benefited from this Decree.

C. Commutation of death sentences

(a) Revolution Command Council Decree No. 106 of 26 April 2001 (a copy of which is attached) provides for the replacement of death sentences imposed on persons found guilty of robbery under the provisions of Revolution Command Council Decree No. 59 of 4 June 1994 with a term of imprisonment, which begins on the date on which the person is taken into custody. Forty-six prisoners benefited from this Decree in 2001 and 17 in 2002.

(b) Death sentences have been commuted to life imprisonment under the terms of presidential decrees, from which eight prisoners benefited in 2001 and two in 2002.

(c) Death sentences have been commuted under the terms of discretionary decrees, from which four prisoners benefited in 2001 and seven in 2002.

D. Death sentences carried out over the past two years (2000 and 2001)

The numbers of persons against whom death sentences were carried out during 2000 and 2001 were as follows:

(a) 2000

One hundred and six prisoners were executed for the crimes of homicide and homicide accompanied by robbery. Forty prisoners were executed for drug-related offences and 11 for immoral offences (rape of a close female blood relative).

(b) 2001

Sixty-three prisoners were executed for homicide and homicide accompanied by robbery. Forty prisoners were executed for drug-related offences and three for immoral offences (rape of a close female blood relative). Thus, in 2000 and 2001 a total of 259 persons were condemned to death for the offences of homicide, homicide accompanied by robbery, drug-related offences and immoral offences (rape of a close female blood relative).

With regard to the ministerial committee responsible for making recommendations concerning the mitigation of crimes punishable by death, the committee continues to review this subject and we shall inform you of its decision in due course.

E. Special courts

A special court is comprised of three ordinary court judges. The public prosecutor in this type of court also works in the ordinary courts. Special courts apply the provisions of the current Penal Code No. 111 of 1969 and the criminal procedures set forth in the Code of Criminal Proceedings No. 23 of 1971, both Codes being those that are applied in Iraq's criminal courts. Special courts guarantee, as a matter of course, the right freely to present a defence. Under article 144 of the Code of Criminal Proceedings, the person on trial must be afforded the services of a lawyer of his own choosing or one that has been appointed for him, throughout all proceedings and at all stages of a special court hearing. Judgements handed down by the special courts are scrutinized by a special judicial authority acting as an appeal body. Special courts are on the same level as specialized criminal courts and, in all cases, are of a temporary nature.

Enclosure I

Revolution Command Council Decree
Decree No. 106

Date: 3 Safar A.H. 1322
26 April A.D. 2001

Pursuant to the provisions of paragraph (a) of article 42 of the Constitution,

The Revolution Command Council has decreed as follows:

1. Revolution Command Council Decree No. 59 of 4 June 1994 is hereby revoked.

2. The penalty applicable to persons found guilty of robbery under the terms of the revoked Decree mentioned in paragraph 1 of the present Decree shall be replaced by the maximum term of imprisonment established by the provisions of the penal laws in force, the enforcement of the penalty of imprisonment being calculated from the date on which the offender is taken into custody.

3. This Decree shall enter into force on the date on which it is promulgated.

Saddam Hussein
President of the Revolution Command Council

The Iraqi Official Gazette No. 3877, 7 May 2001

Enclosure II

Revolution Command Council Decree
Decree No. 107

Date: 3 Safar A.H. 1322
26 April A.D. 2001

Pursuant to the provisions of paragraph (a) of article 42 of the Constitution,

The Revolution Command Council has decreed as follows:

1. Under the terms of the present Decree the provisions are hereby reinstated of the Penal Code No. 111 of 1969 and of other special laws concerned with the penalty of a fine or a substitutionary fine for infractions and misdemeanours punishable by a term of no more than 3 (three) years' imprisonment, which were revoked by Revolution Command Council Decrees No. 30 of 17 March 1995 and No. 5 of 17 January 1998.

2. The provisions of paragraph 1 of this Decree shall not apply to:

(a) Offences against a person's honour such as are designated by law;

(b) The offences specified in articles 236, 245, 247, 267, 272, 279, 327, 332, 352 and 461 of the Penal Code.

3. The amounts of the fines for the offences mentioned in paragraph 1 of the present Decree shall be as follows:

(a) No less than 10,000 (ten thousand) and no more than 50,000 (fifty thousand) dinars for infractions;

(b) No less than 51,000 (fifty-one thousand) and no more than 250,000 (two hundred and fifty thousand) dinars for misdemeanours.

4. In the event of failure to pay the fine provided for under this Decree, the court shall sentence the offender to serve one day in prison for every 500 (five hundred) dinars of the fine imposed. However, the term of imprisonment must not exceed one and a half years and the period of remand in custody must be deducted in the same proportion when the fine is paid.

5. Revolution Command Council Decrees No. 30 of 17 March 1994 and No. 5 of 17 January 1998 are hereby revoked.

6. This Decree shall enter into effect on the date on which it is published in the Official Gazette.

Saddam Hussein
President of the Revolution Command Council

The Iraqi Official Gazette No. 3877, 7 May 2001

Enclosure III

Revolution Command Council Decree
Decree No. 108

Date: 3 Safar A.H. 1322
26 April A.D. 2001

Pursuant to the provisions of paragraph (a) of article 42 of the Constitution,

The Revolution Command Council has decreed as follows:

1. Prison sentences handed down against prisoners and detainees on or before the date of the entry into effect of the present Decree shall be reduced by 50 (fifty) per cent.

2. The provisions of paragraph 1 of this Decree shall not apply to:

(a) Prisoners and detainees found guilty of the following offences:

(i) Offences against the internal and external security of the State;

(ii) The offences of robbery specified in articles 441, 442, 443 and 444 of the Penal Code and crimes involving robbery accompanied by homicide;

(iii) The offences of sodomy, rape and unlawful intercourse with a close female blood relative or matchmaker.

3. The period of conditional release to which a person covered by the provisions of this Decree is legally entitled shall be calculated on the basis of the term of the sentence that remains after it has been reduced by the percentage specified in paragraph 1 hereof.

4. This Decree shall enter into effect on the date on which it is promulgated.

Saddam Hussein
President of the Revolution Command Council

The Iraqi Official Gazette No. 3877, 7 May 2001

Annex VII

Note verbale dated 11 April 2002 from the Permanent Mission of Iraq to the United Nations Office at Geneva

The Permanent Mission of the Republic of Iraq to the European headquarters of the United Nations and other international organizations in Geneva presents its compliments to the High Commissioner for Human Rights and to the Special Rapporteur on the situation of human rights in Iraq, Mr. Andreas Mavrommatis, and with reference to his letter dated 3 April 2002, has the honour to transmit to him herewith the following reply:

1. On 24 March 2002 the Ministry of Foreign Affairs of the Republic of Iraq issued a statement (a copy of which is attached), on the subject of the United States pilot refuting the claims made by the United States of America and expressing Iraq's willingness to receive a United States team to visit Iraq, under the auspices of the International Committee of the Red Cross (ICRC), accompanied by a United States media team and by Mr. Scott Ritter, the former head of inspection team UNSCOM-24, who conducted an inspection of the crash site of the aircraft in question.

2. The reactions of the United States to the Iraqi initiative have been guarded and sceptical. Vice-President Dick Cheney said he must first examine whether the Iraqi initiative was a serious proposition or whether Iraq was trying to create a distraction.

3. In response to the United States comments, the Ministry of Foreign Affairs issued a second statement on 27 March 2002 (a copy of which is attached) confirming the seriousness of the Iraqi proposal to receive a United States delegation to investigate the fate of the pilot in question.

4. The Ministry of Foreign Affairs of the Republic of Iraq sent official notes to the ICRC delegation and the United States Interest Section (the Polish embassy) in Baghdad, reaffirming Iraq's willingness to receive a United States delegation to investigate the matter.

5. At the end of last month we asked the ICRC representative to convey a message to the United States side indicating Iraq's willingness to receive a United States delegation to investigate the fate of the aforementioned pilot. The Government of Iraq has yet to receive a response from the United States side.

Enclosure I

Statement

On 11 March 2002, a spokesman for the United States Department of State told the press that his Government had raised the subject of the pilot Michael Speicher with the Iraqi Government in January 2001 and that it considered him to be missing, rather than killed in action. The head of the United States delegation also raised this subject at the most recent meeting of the Tripartite Commission held at Geneva on 8 March 2002, and the President of the United States, George Bush himself mentioned it at a press conference on 13 March of this year.

The spokesman for the [Iraqi] Ministry of Foreign Affairs has made the following statement in this regard:

> "The case of the United States pilot Michael Speicher goes back to the first day of the war launched by the United States of America against Iraq on 17 January 1991, when the pilot's aircraft was brought down in the western region of the country. Since then, the United States administration's handling of the Speicher case has been riddled with inconsistencies. On the evening of the incident, Dick Cheney, who was the Secretary of Defense at the time and is now the United States Vice-President, told journalists that Speicher had died when his aircraft crashed. In May 1991, there being no evidence to suggest that Speicher had survived the incident, the United States Navy approved a report declaring him dead. At the same time, United States television networks quoted sources in the United States Navy who said that the pilot of the plane that was flying with Speicher's had seen his plane explode in the air and crash to the ground, that he had not seen Speicher jump from his aircraft nor had he sent out any distress calls."

The spokesman added:

> "Between 1991 and February 1995 the United States administration made no attempt to investigate the fate of its pilot or to raise the subject with the ICRC or at the meetings of the Tripartite Commission on the subject of missing persons. In 1995, when the administration asked for cooperation to determine what had happened to the pilot and for evidence of his death, Iraq agreed, on purely humanitarian grounds, to receive a United States delegation for that purpose. In fact, a United States technical team of 11 persons came to Iraq on 9 December 1995 and, after visiting the crash site, confirmed that apart from the effects of the weather and of the actions of shepherds passing through the region, the wreckage of the plane had remained largely intact.
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> "Between 17 and 19 December 1991 an inspection team (UNSCOM-24) of the former United Nations Special Commission examined the crash site in the western region of Iraq, a fact which Iraq only learned subsequently. The head of the team, Scott Ritter, admitted that the United States administration had asked him to search for the body of a United States pilot and that he had concluded, after a technical investigation, that the remains had been devoured by wolves. In 1993, the inspection team UNSCOM-63 again conducted its own inspection of the area using helicopters fitted with sophisticated radar equipment, but it found nothing except the wreckage of the plane."

The spokesman added:

> "On 12 January 2001, United States President Bill Clinton raised the subject of Speicher and announced the reclassification of the pilot's status from killed to missing in action. The United States authorities presented an investigation file on Speicher, but the ICRC refused to accept it, because the deadline for the submission of investigation applications had expired on 31 July 1996. The Committee asked the United States to submit the application on the basis of a bilateral investigation under the auspices of the ICRC between the two States concerned. In fact, on 11 May 2001 Iraq received a bilateral investigation file from the United States administration via the ICRC and on 23 September 2001 the Ministry of Foreign Affairs submitted its reply to the ICRC providing all the information and evidence at its disposal. This information was essentially drawn from the information available to the United States authorities, confirming that Commander Speicher had died in the incident and identifying the location in which it had occurred. Indeed, the United States authorities had not asked for his name to be included on the 1991 lists of prisoners of war, nor had he been registered as a missing person. The Iraqi authorities are unable to add anything to the conclusions reached by the United States team during its 1995 visit to Iraq."

The spokesman for the Ministry of Foreign Affairs concluded his statement by saying:

> "In order to demonstrate our goodwill in this matter and to refute the repeated allegations made by the United States of America against Iraq, we affirm the willingness of the Iraqi authorities concerned to receive a United States team to visit Iraq and investigate the matter, to be accompanied by a United States media team to provide coverage and document [the visit], under the auspices of the ICRC and with the participation of Mr. Scott Ritter, the former head of the inspection team UNSCOM-24, who inspected the crash site in 1991."

In placing these facts before international public opinion, Iraq calls upon the United States administration to desist from its policy of misinformation and misrepresentation which it pursues from time to time against one party and another, and it reaffirms that the best means of resolving matters of a purely technical nature is through the relevant legal channels.

Enclosure II

Statement of the spokesman for the Ministry of Foreign Affairs

In response to the statements made by the United States Vice-President Dick Cheney, in which he expressed doubts as to the seriousness of the offer made by the Government of the Republic of Iraq to receive a United States team to investigate the case of the pilot, Michael Speicher, whose aircraft was brought down over Iraqi territory on 17 January 1991, the spokesman for the Ministry of Foreign Affairs has made the following statement:

> "The United States administration knows better than anyone that when Iraq says something it means it. When Iraq put forward a proposal offering to receive a United States delegation in order to investigate the fate of the pilot, Speicher, it did not do so in order to gain media attention. Indeed, on 26 March 2002, the Ministry of Foreign Affairs formally notified the head of the delegation of the International Committee of the Red Cross in Baghdad of its willingness to take the necessary steps to implement this initiative. As for the wish expressed in his statement of 25 March 2002 by the spokesman of the United States Department of State that the Tripartite Commission should review the case of the United States pilot, the Commission, regardless of Iraq's opinion of its current composition, refused to accept the pilot's case file when the United States delegation offered it at the end of 1999, because the deadline for the submission of investigation applications to the Commission had expired on 31 July 1996. The Commission urged the United States of America to submit the application on the basis of a bilateral investigation under the auspices of the International Committee of the Red Cross between the two States concerned (Iraq and the United States of America). The United States has yet to submit such an application."

The spokesman for the Ministry of Foreign Affairs concluded his statement by saying:

> "If the United States of America is serious about ascertaining the fate of the United States pilot after having ignored his case for several years, it need only notify the International Committee of the Red Cross of its acceptance of Iraq's proposal."